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U.S. BANKRUPTCY COURT  
FILED  
NEWARK, NJ

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JEANNE A. NAUGHTON

BY:   
DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

In re:

BED BATH & BEYOND INC., et al.

Debtors

Case No. 23-13359 (VFP)

Chapter 11

Date: October 24, 2023

Time: 10:00 a.m. (ET)

Judge: Honorable Vincent F. Papalia

Courtroom: 3B

DECLARATION OF STEFANIE KLAPPER IN SUPPORT OF CREDITOR COUNTY  
OF SACRAMENTO TAX COLLECTOR'S RESPONSE TO DEBTORS' SECOND  
OMNIBUS OBJECTION AND OPPOSITION TO MOTION TO DETERMINE TAX  
LIABILITY

I, Stefanie Klapper declare as follows:

1. I make this declaration based upon my own personal knowledge, except for matters set forth herein on information and belief, and as to those matters, I believe them to be true, and if called upon to testify herein, I could and would competently testify thereto.

2. I am currently employed as Chief Appraiser in the Office of the Sacramento County Assessor ("Assessor"). My responsibilities in such capacity include overseeing the assessment of business personal property and fixtures and resolution of business personal property and fixtures assessment appeals.

3. Under California law, the Assessor is required to annually assess taxable business personal property as of January 1 each year, which serves as the lien date. As of January 1,

1 2023, debtor Bed Bath & Beyond Inc. ("Debtor") operated four Bed Bath and Beyond and one  
2 Buy Buy Baby retail stores within Sacramento County.

3 4. For California assessment purposes "business personal property" includes all  
4 equipment owned on lease, rent, or conditional sale to others used in the operation of a business.  
5 Business personal property is reported to the Assessor annually on a California State Board of  
6 Equalization form known as the Business Property Statement (Form 571-L). Form 571-L  
7 constitutes an official request from the Assessor for the taxpayer to declare all assessable  
8 business property situated in the county which the taxpayer owned, claimed, possessed,  
9 controlled, or managed on the tax lien date, and that the taxpayer signs (under penalty of  
10 perjury). Failure to file the statement during the time provided in section 441 of the Revenue and  
11 Taxation Code will compel the Assessor to estimate the value of property from other information  
12 in the Assessor's possession and add a penalty of 10 percent of the assessed value as required by  
13 section 463 of the Revenue and Taxation Code.

14 5. I am familiar with the tax records maintained by the Assessor in the normal  
15 course of business and specifically with information requested by the Assessor or furnished in  
16 the Business Property Statement.

17 6. Debtor submitted a Business Property Statement for 2023 to the Assessor dated  
18 May 4, 2023. The statement was signed on behalf of Debtor under penalty of perjury by Toni-  
19 Anne Andrisano, VP Tax. Based on my review of Assessor records, I have determined that the  
20 Assessor assessed the Debtor's property exactly as it was reported by Debtors for the 2023 fiscal  
21 year.

22 7. The Sacramento Tax Collector issued unsecured tax bills for the personal property  
23 and fixtures located within the five locations operated by Debtor for fiscal year 2023. The 2023  
24 tax bills are based on the values from the unsecured roll enrolled by the Assessor. Pursuant  
25 to California Revenue and Taxation Code Section 2922, Unsecured (Personal) Property Taxes  
26 are due upon receipt of the Unsecured Property Tax Bill and are last due without penalty on  
27 August 31.

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1           8.       A taxpayer that disagrees with an assessed value established for a property may  
2 review the assessment with the Assessor's office and seek a stipulation to reduce the subject  
3 value or values. If an agreement cannot be reached, the taxpayer has a right to appeal the  
4 assessment value under certain circumstances and limitations. The taxpayer generally bears the  
5 burden of proof in such appeals. A party that is dissatisfied with an assessment appeals board  
6 decision may seek review in the California Superior Court for the County where the property is  
7 located.

8           9.       Debtor's deadline to file an assessment appeal application with the Sacramento  
9 County Assessment Appeals Board for the 2023 year is November 30, 2023. To date, Debtor  
10 has not contacted the Assessor's Office to discuss the 2023 valuations of any of its Sacramento  
11 County assessed property, nor has it filed an Appeal Application for the 2023 tax year.  
12 Additionally, Debtor has not filed an assessment appeal regarding any of its assessed personal  
13 property within Sacramento County during the last five years.

14           10.     I reviewed the declaration of Bed Bath and Beyond's appraiser John W. Lammert,  
15 submitted by Debtor in support of its Second Omnibus Objection in this matter. Debtor's  
16 claimed valuations are based on post-lien date sales while the Debtor was insolvent. Mr.  
17 Lammert's appraised value assets rely on the sales comparison approach in determining market  
18 value, rather than the cost approach. As stated in the California Board of Equalization's  
19 Assessors' Handbook section 504, page 50: "[The Cost Approach] is the method of valuation  
20 used most frequently to value personal property and business fixtures for assessment purposes  
21 because it lends itself to mass appraisal and is employed based on information provided on the  
22 yearly property statements."

23           11.     The nature of Bed Bath & Beyond's store closures and accompanying sales data  
24 are considered a distressed sale, which do not reflect "full cash value", as commonly accepted in  
25 California property tax assessment purposes and are therefore not reliable. California Property  
26 Tax Rule 2, contained within Title 18 of the California Code of Regulations states:

27                 In addition to the meaning ascribed to them in the Revenue and Taxation Code,  
28                 the words "full value", "full cash value", "cash value", "actual value", and "fair

1 market value" mean the price at which a property, if exposed for sale in the open  
2 market with a reasonable time for the seller to find a purchaser, would transfer for  
3 cash or its equivalent under prevailing market conditions between parties who  
4 have knowledge of the uses to which the property may be put, both seeking to  
maximize their gains and neither being in a position to take advantage of the  
exigencies of the other.

5 12. The 2023 claimed valuation determinations by Bed Bath & Beyond's appraiser of  
6 Debtor's personal property in Sacramento County are between 8% and 12% of the assessed  
7 values on the tax roll and are far below the fair market value for similar retail stores in  
8 Sacramento County.

9 13. Assessment uniformity is required under the California Constitution to ensure  
10 fairness in property tax assessment among taxpayers. This uniformity would be at risk if a  
11 bankruptcy court, rather than Sacramento County's Assessment Appeals Board, makes a  
12 valuation determination at a hearing without the Assessor present, and based on valuation  
13 methods that are not accepted under the Revenue and Taxation Code.

14 I declare under penalty of perjury under the laws of the State of California that the  
15 foregoing is true and correct.

16 Executed this 16 day of October 2023, at Sacramento, California.

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20 Stefanie Klapper  
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